

**Remarks**

Claims 1-30 were in the application as last examined. Applicant now adds new claims 31-32. No new matter is added to the claims or to the specification. Further consideration and examination is respectfully requested.

**Rejections under 35 U.S.C. §112**

Claims 1-4 and 6-13 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The rejection is traversed.

The Examiner asserts that claims 1-4 and 6-13 recite a display panel that is adapted to bear indicia where it is unclear if the indicia are a part of the claimed subject matter.

Applicants submit that claim 1, from which claims 2-4 and 6-13 depend, is sufficiently clear concerning the configuration of the display panel and its ability to bear indicia. Claim 1, in relevant part, calls for a display panel adapted to bear indicia about contents of the container. The term “adapted” is intended for use in its ordinary meaning of “made suitable or fit for a specific use or situation.” *The American Heritage® Dictionary of the English Language, Fourth Edition*. Houghton Mifflin Company, 2004. Consequently, the clear language of the claim suggests that the indicia on the display panel are not part of the claimed subject matter of claim 1. For example, the display panel is not required to bear indicia, but rather is suitable for indicia should one choose to add indicia. Clarity may be perceived better by comparison to new claims 31 and 32 which require indicia on the display panel.

Applicants request withdrawal of the rejection, and the allowance of claims 1-4 and 6-13.

**Rejections under 35 U.S.C. §102**

Claims 1, 2, 13, 21-23, 25, 26, 27, 29 and 30 stand rejected under 35 U.S.C. §102(e) as being anticipated by the Sax et al. patent. The rejections are traversed.

The Sax et al. patent discloses a corrugated paperboard container made from assembling two separate blanks for shipping and displaying contents (Col. 3, lines 50-63 and Col. 5, lines 57-58). The first blank is a box 10 with a breakaway panel 40 and the second blank is a

breakaway assist panel 50 (Col. 6, lines 1-25). What the Examiner refers to as a “display panel” 12 is identified in the Sax et al. patent as a front panel of the container. Lower flaps 16, 22, 28, and 34 are folded inward to form a first end and top flaps 14, 20, 26, and 32 are folded inward to make a second end (Col. 7, lines 15-23). The vendor may convert the container to a display unit by removing the breakaway panel 40 and breakaway assist panel 50.

With respect to claim 1, nothing regarding a display panel adapted to bear indicia about contents of the container is disclosed in the Sax et al. patent; rather the Sax et al. patent discloses configuring the breakaway assist panel 50 to be formed to bear indicia. However, the breakaway display panel 50 is removed from the container and discarded when the container is turned into a display unit (Col. 6, lines. 25-46 and Col. 7, lines 55-60).

With respect to claim 21, the Sax et al. patent does not disclose a first end having at least one panel selectively movable to close the first end and a second end having a display panel that partially defines an opening in the second end, the second end further having a closure panel selectively movable between a closed position where it covers the second end including the opening and the display panel, securing the contents of the container for shipping, and an open position wherein the opening and the display panel are exposed. The front panel 12 of the Sax et al. patent does not partially define an opening in the second end of the container; rather it serves as an opening on a side of the container. The two ends are defined in the Sax et al. patent by the lower flaps 16, 22, 28, and 34 and top flaps 14, 20, 26, and 32 neither of these ends contains a display panel.

Further, with respect to both claims 1 and 21 the breakaway assist panel 50 is not a part of the container it is a separate and distinct second blank attached to the container. Moreover, the breakaway assist panel 50 is not *selectively moveable* between a closed position where it covers the display panel, and an open position wherein the opening and the display panel are exposed. Once the breakaway assist panel is moved to an open position it may not be moved back to the closed position, instead Sax et al. teaches discarding of the breakaway assist panel. Thus, claims 1 and 21 are not anticipated by the Sax et al. patent. And because claims 2 and 13 depend from claim 1 and because claims 22-23, 25, 26, 27, 29 and 30 all depend from claim 21, they are likewise not anticipated.

Moreover, with respect to claim 2 the Sax et al. patent does not disclose a closure panel extending from a hinge on another of the top, bottom, and side panels. Rather the Sax et al. patent discloses the breakaway panel and breakaway assist panel 50 being formed with a line of weakness 46 which is to rupture permanently. Paragraph 44 of the application explains that the closure panel is folded back over the adjacent top panel and no detachment is taught.

With respect to claim 13, the Sax et al. patent does not disclose a display panel having a bottom portion and two side portions. Applicant's invention has two side panels 34, 36 and a securing bottom panel 44 that together form the display panel.

Claims 1-4 and 12 stand rejected under 35 U.S.C. §102(b) as being anticipated by the Matsuda et al patent. The rejections are traversed.

The Matsuda et al. patent discloses a corrugated fiberboard or paperboard carton for holding and dispensing volumes of cut sheets of paper (Col. 1, lines 63-65 and Col. 5, lines 25-27). What the Examiner refers to as "display panels" 2a, 3a are identified in the Matsuda et al. patent as inner flaps in the exiting end of the carton. A front flap face 5 is attached to side panels 2 and 3 and top panel 1 by trigger cut lines 10a, 10b, 11, and 12 such that front flap face 5 may become an opening face for the dispensing of paper volumes when the trigger cut lines 10a, 10b, 11, and 12 are torn and the inner flaps 2a and 3a are torn off along the cut lines 11 and 12 (Col. 5, lines 1-17).

With respect to claim 1, the Matsuda et al. patent does not disclose a display panel. The inner flaps 2a and 3a of the Matsuda et al. patent display nothing; rather they are removed to facilitate the taking out of the volumes 6 of the cut sheets. (Col. 5, lines 5-10). Further, in Fig. 11 the inner flaps 2a and 3a are bent forward before torn off at horizontal cut lines 11a and 12a to facilitate the taking out of the volumes. At the very most when the inner flaps 2a and 3a are bent forward before being torn off they do not display anything but merely serve to bar the accidental exit of volumes of paper from the carton (Col. 5, lines. 20-27). Thus, claim 1 is not anticipated by the Matsuda et al. patent. And because claims 2-42, and 12 all depend from claim 1, they are likewise not anticipated.

Moreover, with respect to claim 3 the Matsuda et al. patent does not disclose securing the closure panel to another panel in the open position. Rather the Matsuda et al. patent discloses

the front flap face 5 being folded open, but unsecured. Paragraph 44 of the application explains that the closure panel is folded back over the adjacent top panel and *secured thereto*. In the subject invention, Figs. 9-15 show one way that the closure panel is secured to the top panel.

With respect to claim 12, the Matsuda et al. patent does not disclose full overlap panels on the first end.

### **Allowable Subject Matter**

Applicant acknowledges with thanks the Examiner's determination of the allowability of the subject matter of claims 4-20. However, given the apparent allowability of the remaining claims, it is believed that no amendments to these claims are needed to establish patentability.

Inasmuch as all claims are now believed to be in condition for allowance, prompt notice of allowability is respectfully requested. Any questions about the foregoing can be directed to the undersigned and the Examiner is invited to resolve any remaining issues by telephone or by email.

### **Conclusion**

Inasmuch as all claims are now believed to be in condition for allowance, prompt notice of allowability is respectfully requested. Any questions about the foregoing can be directed to the undersigned and the Examiner is invited to resolve any remaining issues by telephone or by email.

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Dated: October 16, 2007

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